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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,336	12/08/2003	James Schultz	78526	2401

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EXAMINER

OLSON, LARS A

ART UNIT PAPER NUMBER

3617

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,336

Applicant(s)

SCHULTZ, JAMES

Examiner

Lars A Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-20 is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2, 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiggen et al. (US 5,052,326) in view of Larson et al. (US 5,979,350).

Wiggen et al. discloses a detachable boat arch, as shown in Figures 1-7, that is comprised of a pair of supports, defined as Part #12, for a superstructure, defined as Part #14, said supports being mounted to a surface of a vehicle, as shown in Figures 1 and 2, and being comprised of a mounting surface, as shown in Figures 2 and 3, for mounting to a surface of said vehicle, a stanchion face, as shown in Figures 2 and 3, for mounting to said superstructure, and a bracket length, defined as Part #12, that spans from said mounting surface to said stanchion face, where said bracket distributes compressive forces received along said stanchion face through to said mounting surface, and said mounting surface and said stanchion face are set at an angle, as shown in Figure 1, to provide proper positioning to said superstructure.

Wiggen et al., as set forth above, discloses all of the features claimed except for the use of a superstructure for towing a person on a surface, where said superstructure includes a member for providing a lifting force to said person.

Larson et al. discloses a water sport towing apparatus, as shown in Figures 1-14, that includes a superstructure, defined as Part #100, that is mounted to a surface of a vehicle, as shown in Figures 1 and 2, where said superstructure is further comprised of a member, defined as Part #120, that provides a lift force to a person being towed on said surface, as shown in Figure 1.

The use of a bracket with a stanchion face of a specific width would be considered by one of ordinary skill in the art to be a design choice based upon the size and mounting orientation of the part to be mounted to said stanchion face.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a superstructure with a member for providing a lift force to a person being towed on a surface, as taught by Larson et al., in combination with the detachable boat arch as disclosed by Wiggen et al. for the purpose of providing a stronger support for a towing superstructure mounted on a watercraft that also facilitates maintenance and installation.

Allowable Subject Matter

3. Claims 6-20 are allowed.
4. Claims 2, 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Larson et al. (US 6,374,762, US 6,192,819 and US 6,044,788), Feikema (US 5,669,325), Emory, Jr. (US 4,527,349) and Etherington et al. (US 3,977,654) disclose various supports for mounting a superstructure to a watercraft. Hobrecht (US 4,900,058 and US 4,171,141) and Sauter (US 4,515,393) disclose various rollbars with supports for mounting to a vehicle.
6. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

June 29, 2004

LARS A. OLSON
PATENT EXAMINER

Lars Olson
6/29/04